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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Amendment of Section 73.202(b) )  
Table Of Allotments )  
FM Broadcast Stations, )  
Bowie, Texas )

MM Docket No. 93-180  
RM-8237

To: Chief, Allocations Branch  
Mass Media Bureau

OPPOSITION TO PETITION FOR RECONSIDERATION

Central Oklahoma Radio Corporation (hereafter "Central"), by its undersigned counsel, and pursuant to Section 1.106(g) of the Commission's rules and regulations hereby respectfully submits its "Opposition" to the "Petition For Immediate Reconsideration" filed on July 8, 1993, in the above-captioned proceeding by Bowie-Nocona Broadcasting Co., Inc. (hereafter "Bowie"), the licensee of KRJT-FM, Bowie, Texas. For the reasons noted herein the Petition should be summarily denied.

BACKGROUND

1. In 1990 pursuant to the Report and Order<sup>1</sup> in MM Docket 89-228, the FM Channel 264A allocation at Bowie, Texas, was modified on the Commission's own motion to FM Channel 264C3. Bowie was ordered to file an application to modify the facilities of KRJT-FM to specify a class C3 operation. For three years Bowie ignored the re-allocation at Bowie and took no action to effectuate the KRJT-FM up-grade.

<sup>1</sup> 5 FCC Rcd 2152 (1990).

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2. In the meantime, Central acquired KFXT-FM, Sulphur, Oklahoma and received Commission authority to up-grade the allocation at Sulphur to a Class C2 facility. Upon the grant of the new allocation becoming a final order, Central promptly filed an application to modify the facilities of KFXT-FM from an antenna farm location near Sulphur. This location protects the licensed facilities of Bowie's station, but slightly short-spaces the un-used C3 allocation.

3. Accordingly, on April 1, 1993, the Chief, FM Branch, sent a letter to Bowie notifying it of the pending application by

5. However, the application is too little too late. The Central rulemaking was filed a month before the Bowie application was tendered and therefore that application may only be treated as a comment or counter-proposal in the subject rulemaking. The filing of the application is no basis for reconsidering the Commission's issuance of the subject rulemaking petition. Bowie cites no precedent in support of its Petition. None exists.

Wherefore, Central submits that the Bowie Petition be denied and considered, if at all, as a comment in the rulemaking proceeding.

Respectfully submitted,

Central Oklahoma Radio Corporation

By: 

Jeffrey D. Southmayd

Its Attorney

Southmayd & Miller  
1220 19th Street, N.W.  
Suite 400  
Washington, D.C. 20036  
(202) 331-4100

July 21, 1993

EXHIBIT NO. 1

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

1 APR 1993

IN REPLY REFER TO:  
1800B3-LR/DEB

Certified Mail--Return Receipt Requested

Bowie Nocona Broadcasting Co., Inc.  
P.O. Box 1080  
Bowie, TX 76230

In re: KRJT(FM), Bowie, TX  
Bowie Nocona Broadcasting Co., Inc.  
Upgrade to Class C3

Dear Licensee:

Pursuant to the Report and Order in MM Docket 89-228, 5 FCC Rcd 2152 (1990), adopted February 22, 1990 and effective May 18, 1990, the Commission modified the allotment for KRJT-FM to permit that station to specify Class C3 facilities on the present channel [264]. However, as of this date, no construction permit application on FCC Form 301 for Class C3 facilities has been received. Failure to implement Class C3 facilities in a timely manner constitutes "warehousing" of unused spectrum to the preclusion of other potential users seeking to provide additional broadcast service to the public and could result in your being made a party to an allocation rulemaking seeking to downgrade the Bowie allotment.

The FM Branch has received an application from station KFXT, Sulphur, OK (file Number BPH-921023IB) which conflicts with KRJT-FM's Class C3 allotment and which requests that KRJT be downgraded to Class A. While a downgrade cannot be achieved by another party in this manner, KRJT-FM is advised that its unfilled Class C3 allotment is subject to being downgraded via a rulemaking proceeding.

Please note that, if you intend to apply for Class C3 facilities, you must submit a construction permit application on FCC Form 301.<sup>1</sup> If this application is filed before any conflicting rulemaking is filed, the application will take precedence. If filed later, the application will be subject to the outcome of the rulemaking proceeding. Report and Order, Docket 91-348, 7 FCC Rcd 4917, 57 Fed. Reg. 36018, released August 4, 1992. If you do not intend to apply for Class C3 facilities and wish to remain a Class A station, you must submit an application on FCC Form 302-FM and include a statement specifically requesting that the Bowie Channel 264 allotment be DOWNGRADED to Class A status. Once downgraded, any future attempt to upgrade the Bowie, TX Channel 264 allotment will require a new Petition for Rulemaking.

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<sup>1</sup> KRJT-FM could achieve Class C3 facilities at its present site by specifying an effective radiated power between 3.2 and 13.0 kW.

I strongly encourage you to consult with your engineering and legal counsel on this matter as soon as possible.

Sincerely,

*Dennis Williams*

Dennis Williams  
Chief, FM Branch  
Audio Services Division  
Mass Media Bureau

cc: Fletcher, Heald & Hildreth  
: Southmayd & Miller

EXHIBIT NO. 2

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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

APR 28 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
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Amendment of Section 73.202(b) ) RM-  
Table of Allotments )  
FM Broadcast Stations )  
(Bowie, Texas) )

To: Chief, Allocations Branch  
Mass Media Bureau

PETITION FOR RULEMAKING

Central Oklahomaa Radio Corporation (hereafter "Central")  
hereby respectfully requests that the FM Table of Allotments be  
modified as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Bowie, Texas	264C3	264A

In support of this request the following is respectfully  
submitted.

1. Pursuant to the Report and Order in MM docket 89-228,1  
adopted February 22, 1990, the Commission modified the then-  
existing FM Channel 264A allotment for Bowie, Texas, to specify  
FM Channel 264C3. This allotment was, and is, utilized by KRJT-  
FM, licensed to Bowie Nocona Broadcasting Company, Inc.  
(hereafter "KRJT"). KRJT has failed over the course of the past  
three years to implement the Class C3 upgrade for the station



2. On October 23, 1992, Central filed an application for KFXT(FM), Sulphur, Oklahoma, to implement a Class C2 up-grade it was given for the station. This application conflicts with the KRJT Class C3 allotment at Bowie, Texas, that has never been implemented by KRJT. See, FCC File BPH-921023IB.

3. The KFXT application, if approved, will allow Central to greatly expand the service area for the station.<sup>2</sup> The Commission has consistently found that such an increase in service area is inherently in the public interest. Such a public interest benefit should not be precluded by an allotment that has gone unutilized by an existing station for a period of three years.

Accordingly, Central requests that the present allotment at Bowie, Texas, be modified as noted herein.<sup>3</sup>

Respectfully submitted,

Central Oklahoma Radio Corporation

By:   
Jeffrey D. Southmayd

Its Attorney

Southmayd & Miller  
1220 Nineteenth Street, N.W.  
Suite 400  
Washington, D.C. 20036  
(202) 331-4100

Date: April 28, 1993

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<sup>2</sup> KFXT is presently a Class A operation with a limited service area.

<sup>3</sup> See the attached engineering statement.

CERTIFICATE OF SERVICE

I, Jeffrey D. Southmayd, do hereby certify that I have caused copies of the foregoing to be served by first-class U.S.

## **DECLARATION**

Prepared For

**CENTRAL OKLAHOMA RADIO CORPORATION**

Thomas J. Johnson says that he is an engineer and Vice President of Lechman & Johnson, Inc., Telecommunications Consultants, with offices located at 16201 Trade Zone Avenue, Suite 106, Upper Marlboro, Maryland, and that his qualifications are a matter of record with the Federal Communications Commission.

That the firm of Lechman & Johnson, Inc. has been retained by Central Oklahoma Radio Corporation, licensee of Station KFXT, Sulphur, Oklahoma, to prepare this Engineering Statement in support of a Petition For Rule Making to amend the Table of FM Assignments, Section 73.202(b), to delete Channel 264C3 from Bowie, Texas.

KRJT-FM is currently licensed to operate on Channel 264A at Bowie, Texas. By letter dated April 1, 1993, the Chief, FM Branch advised KRJT-FM as follows:

*"Pursuant to the Report and Order in MM Docket 89-228, 5 FCC Rcd 2152 (1990), adopted February 22, 1990 and effective May 18, 1990, the Commission modified the allotment for KRJT-FM to permit that station to specify Class C3 facilities on the present channel [264]. However, as of this date, no construction permit application on FCC Form 301 for Class C3 facilities has been received. Failure to implement Class C3 facilities in a timely manner constitutes "Warehousing" of unused spectrum to the preclusion of other potential users seeking to provide additional broadcast service to the public and could result in your being made a party to an allocation rulemaking seeking to downgrade the Bowie allotment.*

*The FM Branch has received an application from station KFXT, Sulphur, OK (file Number BPH-921023IB) which conflicts with KRJT-FM's Class C3 allotment and which requests that KRJT be downgraded to a Class A. While a downgrade*

**LECHMAN & JOHNSON, INC.**

Declaration of Thomas J. Johnson  
April 16, 1993  
Page Two

*cannot be achieved by another party in this manner, KRJT-FM is advised that its unfilled Class C3 allotment is subject to being downgraded via a rulemaking proceeding."*

Accordingly, since KRJT-FM has failed to implement the Class C3 operation, it is requested that Channel 264C3 be deleted from Bowie, Texas so that KFXT can provide improved service to Sulphur, Oklahoma and its environs.

I declare under penalty of perjury that the foregoing is true and correct.

LECHMAN & JOHNSON, INC.



Thomas J. Johnson  
Telecommunications Consultant  
April 16, 1993

CERTIFICATE OF SERVICE

I, Jeffrey D. Southmayd, do hereby certify that I have caused copies of the foregoing Application For Review to be served by United States mail, postage pre-paid, on this 21st day